

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ASHLEY ADAMS, individually and as the §
representative of the Estate of RODNEY GERALD §
ADAMS; and WANDA ADAMS, individually; §

CARLETTE HUNTER JAMES, individually and as the §
representative of the Estate of KENNETH WAYNE §
JAMES; KRISTY JAMES, KRYSTAL JAMES, §
KENDRICK JAMES, ARLETT JAMES, JONATHAN §
JAMES and KENNETH EVANS, individually and as §
heirs-at-law to the Estate of Kenneth Wayne James, and §
MARY LOU JAMES, individually, §

CADE HUDSON, individually and as the representative §
of the Estate of DOUGLAS HUDSON, §

PLAINTIFFS

v.

BRAD LIVINGSTON, individually and in his official §
capacity, JOE OLIVER, NANCY BETTS, L. FIELDS, §
JOHN DOE, ROBERT LEONARD, BRANDON §
MATTHEWS, DEBRA GILMORE, SARAH RAINES, §
DANNY WASHINGTON, MATTHEW SEDA, TULLY §
FLOWERS, DORIS EDWARDS, LINDA McKNIGHT, §
REVOYDA DODD, RICK THALER, WILLIAM §
STEPHENS, ROBERT EASON, DENNIS MILLER, §
REGINALD GOINGS, and OWEN MURRAY in their §
individual capacities, TEXAS DEPARTMENT OF §
CRIMINAL JUSTICE, and UNIVERSITY OF TEXAS §
MEDICAL BRANCH §

DEFENDANTS

CIVIL ACTION NO.
6:13-cv-712-KNM
JURY DEMANDED

**PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY
IN RESPONSE TO UTMB'S MOTION TO DISMISS**

Plaintiffs advise the Court of relevant authority supporting their response to Defendant University of Texas Medical Branch's motion to dismiss Plaintiffs' Americans with Disabilities Act and Rehabilitation Act claims (Doc. 5).

On December 16, 2013, Judge Reed O'Connor denied a nearly identical motion to dismiss ADA and Rehabilitation Act claims brought against a prison medical provider in *Wright v. Texas Department of Criminal Justice*, No. 7:13-cv-0116-O, Doc. 16 (N.D. Tex. Dec. 16, 2013).¹ Judge O'Connor found plaintiffs stated a claim against the prison's medical provider by alleging the provider failed to make recommendations to safely house inmates with disabilities – specifically, cells with roommates or without “tie-off” points for mentally ill inmates known to be at risk of suicide. Allegations the medical provider failed to recommend safe housing “state[s] a *prima facie* case that [the medical provider] violated the ADA and Rehabilitation Act.” *Id.* at 8.

The critical facts and allegations are the same here. UTMB knew Adams, Hudson, and James were people with disabilities who needed protection to be housed safely. But it failed to do so, and these men died. Thus, this Court should consider Judge O'Connor's decision as persuasive authority, and Plaintiffs' respectfully request the Court deny the motion to dismiss for the same reasons.

DATED: December 19, 2013.

Respectfully submitted,

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By /s/ Jeff Edwards
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Lead Counsel

¹ A copy of the order is attached as Exhibit 1.

Brian McGiverin
State Bar No. 24067760
James C. Harrington
State Bar No. 09048500

TEXAS CIVIL RIGHTS PROJECT
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CERTIFICATE OF SERVICE

By my signature above, I certify that a true and correct copy of the foregoing has been served on all counsel of record through the Electronic Case Files System of the Eastern District of Texas.